

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:08-CV-00251-FDW-DCK**

**THIS MATTER IS BEFORE THE COURT** to resolve certain discovery disputes. The parties submitted correspondence addressing these discovery disputes dated October 15, 2009, October 16, 2009, and October 20, 2009. In formulating this order, the Court has considered these letters, the arguments of counsel during the informal telephone conference conducted October 21, 2009, and the text and meaning of Rule 26 of the Federal Rules of Civil Procedure.

**IT IS, THEREFORE, ORDERED** as follows:

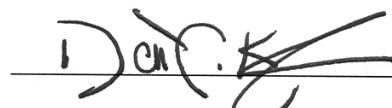
1. The Defendant is directed to respond to Plaintiff's Interrogatory No. 1. Regardless of how the district court may ultimately define the term "offense," this request is at least sufficiently relevant to whether the Defendant marked the bottles "for the purpose of deceiving the public."
2. The Plaintiff is directed to respond *in part* to the Defendant's Interrogatories No. 3 and 4 as follows. The Plaintiff must identify the persons accused (No. 3) and the lawsuits brought (No. 4) by the Plaintiff in either his capacity as an individual or as a lawyer. However, the Plaintiff is *not* required to indicate the outcome, including "whether it was settled and for what amount."

3. The Plaintiff need not respond to the Defendant's Interrogatory No. 12. Counsel for the Defendant to his credit conceded that this Interrogatory No. 12 goes to the issue of the Plaintiff's standing to sue. Judge Whitney has previously ruled that the sovereign injury is sufficient to confer standing on the Plaintiff, and thus this Interrogatory lacks Rule 26 relevance.

4. To ensure that a proper record exists, the Clerk is directed to file and docket the aforementioned correspondence of the parties briefly setting out their respective legal positions on these issues.

**SO ORDERED.**

Signed: October 22, 2009

  
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David C. Keesler  
United States Magistrate Judge 